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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/295,830 04/21/99 HEINLE

H 1-21294

004859 PM82/1030  
MACMILLAN SOBANSKI & TODD, LLC  
ONE MARITIME PLAZA FOURTH FLOOR  
720 WATER STREET  
TOLEDO OH 43604-1619

EXAMINER

VANAMAN, F

ART UNIT	PAPER NUMBER
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3611

DATE MAILED:

10/30/01

*17*

**Please find below and/or attached an Office communication concerning this application or proceeding.**

**Commissioner of Patents and Trad marks**

# Office Action Summary

Application No.

09/295,830

Applicant(s)

Heinle et al.

Examiner

Vanaman

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3611



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on Sep 14, 2001
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 15-27 is/are pending in the application.
- 4a) Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 15-27 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claims \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- a) ☐ All b) ☐ Some\* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \*See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

## Attachment(s)

- 15) ☐ Notice of References Cited (PTO-892) 18) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 16) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 19) ☐ Notice of Informal Patent Application (PTO-152)
- 17) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_ 20) ☐ Other:

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### **Request for Continued Examination**

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on Sept. 14th, 2001 has been entered.

### **Claim Rejections - 35 USC § 112**

2. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

3. Claims 22-27 are rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Claim 22 recites that a chamber is completely enclosed by a lower portion and plural radiators. The specification and drawings do not provide an adequate description to support this claimed limitation. Applicant's invention includes a plurality of radiators (e.g., 2, 3, 4, 5) which serve to partially define a chamber with a lower plate portion (1a). Applicant's chamber is additionally defined by the presence of structural elements which are neither radiators, nor the lower portion (e.g., 8, 9, 10, 11, 1b, 3b, 5b). The specification and drawings fail to provide support for the limitation that the chamber is completely enclosed by the lower portion and the plurality of radiators, in view of the substantial number of further elements which serve to define the chamber.

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**Claim Rejections - 35 USC § 102**

4. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

5. Claims 15-20 are rejected under 35 U.S.C. 102(b) as being anticipated by Weizenburger et al. (US 5,234,051, cited previously). Weizenburger et al. teach a vehicle having a support (17) with a lower portion (9) upon which is supported a plurality of radiators (3, 4, 5, 6-10), and wherein a chamber is defined between the radiators and support (on the front, top and sides by radiator 6-10, on the rear by radiators 3-4-5, on the bottom by support 9), wherein one of the radiators (6-10) is pivotably supported (note phantom, figures 1, 1a) so as to provide access to the interior of the chamber, wherein a cooling fan (1) is positioned outside the chamber for drawing air through the radiators and chamber.

**Claim Rejections - 35 USC § 103**

6. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

7. Claim 21 is rejected under 35 U.S.C. 103(a) as being unpatentable over Weizenburger et al. in view of Moranne (US 4,315,540, cited previously). Weizenburger et al. teach a vehicle having a support with a lower portion upon which is supported a plurality of radiators, and wherein a chamber is defined between the radiators and support (on the front, top and sides by radiator 6-10, on the rear by radiators 3-4-5, on the bottom by support 9), wherein one of the radiators is pivotably supported so as to provide access to the interior of the chamber, wherein a cooling fan is positioned outside the chamber for drawing air through the radiators and chamber. The reference of Weizenburger et al. fails to teach the lower portion has having upstanding brackets. Moranne teaches a radiator mounting scheme wherein a lower support (6) is provided with a plurality of upstanding brackets (8, 7). It would have been obvious to one of ordinary skill in the art at the time of the invention to provide a plurality of upstanding brackets as taught by

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Moranne on the lower portion of the support of Weizenburger et al. for the purpose of providing a secure mounting for the radiators of the vehicle of Weizenburger et al.

### **Claims not Rejected over the Prior Art**

8. Claims 22-27 are not rejected as being anticipated by or unpatentable over the prior art, but they are not in condition for allowance in view of the rejections based upon 35 USC §112, first paragraph. These claims cannot be allowed until the resolution of these rejections.

### **Response to Arguments**

9. Applicant's arguments, filed with the amendment of Sept 24, 2001 have been carefully considered. As regards the argument that the radiators set forth in Weizenburger et al. as not being connected together, these elements are connected together to the breadth claimed: they are mounted to the plate by being bolted, either rigidly or for pivoting motion (e.g., 6, 10). See col. 3, lines 17-20 and 47-49. Note that elements 6 and 10 are secured together and are capable of being pivoted together suggesting integration of operation of these two elements. As regards the chamber as being defined by a plurality of radiators, it is noted that the chamber of Weizenburger et al. is defined by a plurality of radiators-- 3, 4, 5 and 6 are all radiators and all serve to define the chamber.

As regards the reference of Weizenburger as teaching a chamber which is completely enclosed by the radiators and the lower portion, the reference of Weizenburger does not teach the complete enclosure of the chamber by radiators and the lower portion. As noted above, however, in the rejection under 35 USC §112, first paragraph (paragraphs 2 and 3, above), applicant's invention includes numerous members which serve to provide a portion of the 'complete enclosure', which are neither (a) the lower portion, nor (b) radiators (e.g. elements 3b, 5b, 8, 9, 10, 11, etc.).

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**Conclusion**

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to F. Vanaman whose telephone number is (703) 308-0424. Any inquiry of a general nature or relating to the status of this application should be directed to the group receptionist whose telephone number is (703) 308-1113.

Any response to this action should be mailed to:

Assistant Commissioner for Patents  
Washington, DC 20231

or faxed to :

(703) 305-3597 or 305-7687 (for formal communications intended for entry;  
informal or draft communications may be faxed to the same number but should be  
clearly labeled "UNOFFICIAL" or "DRAFT")

**F. VANAMAN**  
**Primary Examiner**  
**Art Unit 3611**

F. Vanaman  
October 26, 2001



10/29/01